MONTANA LEGISLATIVE HISTORY

Chapter 287 19 99

Bill H _____ S 179 Original bill & history ✓C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) 3/10	✓C	Hearing Date(s) 1/14	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

SB 179 Introduced by R. Holden *LC1502 Drafter: Potesch*

Clarify That a Temporary Driving Permit Issued to a Person Arrested for Driving under the Influence of Alcohol or Drugs Is Not Effective until 12 Hours after Issuance;...

By Request of Senate Judiciary Standing Committee

1/09	Introduced and 1st Reading		
1/09	Referred to Judiciary		
1/14	Hearing		
1/14	Committee Executive Action--Bill Passed	9	0
1/15	Committee Report--Bill Passed		
1/19	2nd Reading Passed	48	0
1/20	3rd Reading Passed	50	0
	Transmitted to House		
2/16	Referred to Judiciary		
3/10	Hearing		
3/19	Committee Executive Action--Bill Concurred	17	3
3/19	Committee Report--Bill Concurred		
3/29	2nd Reading Concurred	89	10
3/30	3rd Reading Concurred	89	10
	Returned to Senate		
3/30	Sent to Enrolling		
3/31	Returned from Enrolling		
3/31	Signed by President		
4/07	Signed by Speaker		
4/07	Transmitted to Governor		
4/09	Signed by Governor		
4/12	Chapter Number Assigned		
	Chapter Number 287		
	Effective Date: 10/01/1999 - All Sections		

SB 180 Introduced by Hertel *LC0893 Drafter: B. Campbell*

Require County Commissioners to Hold a Public Hearing to Review the Potential Effects of an Acquisition or Disposition of Real Property Within the County by an Agency of the Federal Government;...

1/11	Introduced and 1st Reading		
1/11	Referred to Local Government		
1/19	Hearing		
1/27	Committee Executive Action--Bill Passed as Amended	11	0
1/28	Committee Report--Bill Passed as Amended		
1/30	2nd Reading Passed	29	15
2/01	3rd Reading Passed	33	17
	Transmitted to House		
2/16	Referred to Local Government		
3/04	Hearing		
3/10	Tabled in Committee		
	Died in Standing Committee		

SB BILL NO. 179

INTRODUCED BY Pete Story
(Primary Sponsor)

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A TEMPORARY DRIVING PERMIT ISSUED TO A PERSON ARRESTED FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS IS NOT EFFECTIVE UNTIL 12 HOURS AFTER ISSUANCE; AND AMENDING SECTION 61-8-402, MCA."

WHEREAS, in City of Helena v. Danichek, 277 Mont. 461, 922 P.2d 1170, 53 St. Rep. 767 (1996), a concurring opinion by Justice Nelson noted that section 61-8-402, MCA, requires that a drunk driver be issued a temporary driving permit as the driver leaves the police station and even before the driver is sober.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-402, MCA, is amended to read:

"**61-8-402. Blood or breath tests for alcohol, drugs, or both.** (1) A person who operates or is in actual physical control of a vehicle upon ways of this state open to the public is considered to have given consent to a test or tests of the person's blood or breath for the purpose of determining any measured amount or detected presence of alcohol or drugs in the person's body.

(2) (a) The test or tests must be administered at the direction of a peace officer when:

(i) the officer has reasonable grounds to believe that the person has been driving or has been in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been placed under arrest for a violation of 61-8-401;

(ii) the person is under the age of 21 and has been placed under arrest for a violation of 61-8-410; or

(iii) the officer has probable cause to believe that the person was driving or in actual physical control of a vehicle in violation of 61-8-401 and the person has been involved in a motor vehicle accident

INTRODUCED BILL
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or collision resulting in property damage, bodily injury, or death.

(b) The arresting or investigating officer may designate which test or tests are administered.

(3) A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is considered not to have withdrawn the consent provided by subsection (1).

(4) If an arrested person refuses to submit to one or more tests requested and designated by the officer as provided in subsection (2), the refused test or tests may not be given, but the officer shall, on behalf of the department, immediately seize the person's driver's license. The peace officer shall immediately forward the license to the department, along with a report certified under penalty of law stating which of the conditions set forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to submit to one or more tests requested and designated by the peace officer. Upon receipt of the report, the department shall suspend the license for the period provided in subsection (6).

(5) Upon seizure of a driver's license, the peace officer shall issue, on behalf of the department, a temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of issuance, and shall provide the driver with written notice of the license suspension or revocation and the right to a hearing provided in 61-8-403.

(6) The following suspension and revocation periods are applicable upon refusal to submit to one or more tests:

(a) upon a first refusal, a suspension of 6 months with no provision for a restricted probationary license;

(b) upon a second or subsequent refusal within 5 years of a previous refusal, as determined from the records of the department, a revocation of 1 year with no provision for a restricted probationary license.

(7) A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests.

(8) The department may recognize the seizure of a license of a tribal member by a peace officer acting under the authority of a tribal government or an order issued by a tribal court suspending, revoking, or reinstating a license or adjudicating a license seizure if the actions are conducted pursuant to tribal law or regulation requiring alcohol or drug testing of motor vehicle operators and the conduct giving rise to

the actions occurred within the exterior boundaries of a federally recognized Indian reservation in this state. Action by the department under this subsection is not reviewable under 61-8-403.

(9) A suspension under this section is subject to review as provided in this part.

(10) This section does not apply to blood and breath tests, samples, and analyses used for purposes of medical treatment or care of an injured motorist or related to a lawful seizure for a suspected violation of an offense not in this part."

- END -

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **SEN. LORENTS GROSFIELD**, on January 14, 1999 at 9:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Steve Doherty (D)
Sen. Sue Bartlett (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 163, SB 176, SB 179, 1/11/1999
Executive Action: SB 22, SB 179

HEARING ON SB 179

Sponsor: **SEN. RIC HOLDEN, SD 1, Glendive**

Proponents: **Greg Petesch, Code Commissioner**

Opponents: **None**

Opening by Sponsor:

SEN. RIC HOLDEN, SD 1, Glendive, introduced SB 179 which clarified that a temporary driving permit issued to a person arrested for driving under the influence of alcohol or drugs is not effective until twelve hours after issuance.

Proponents' Testimony:

Greg Petesch, Code Commissioner, explained that this is suggestive legislation which he brought before the committee. This bill clarifies that after a person's drivers' license had been seized for refusal to submit to a breath test on a suspected DUI, the temporary driving permit that is issued by the police officer to the individual who refuses the test does not take effect until 12 hours after it has been issued. In City of Helena v. Danichek, the individual refused the breath test and was issued the temporary driving permit. In his special concurring opinion on the case Justice Nelson pointed out that Montana statute on issuance of temporary driving permits is unique in that it does not have a delayed time period for taking effect. Section 61-8-402,MCA, requires that a drunk driver be issued a temporary driving permit as the driver leaves the police station and even before the driver is sober.

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor: **SEN. HOLDEN** closed on SB 197.

{Tape : 1; Side : A; Approx. Time Counter : 9.09}

HEARING ON SB 176

Sponsor: SEN. JOHN BOHLINGER, SD 7, Billings

Proponents:
Wally Melcher, Developmental Disabilities Systems Advocacy Committee (DDSAC)
Rose Hughes, Executive Director, Montana Health Care Association.
Craig Sweet, Montana Public Interest Research Group
Jeanne Bauman, Montana Credit Union Leagues
Susan DeBree, United Methodist Church
Christine Kaufman, Montana Human Rights Network
Al Smith, Montana Trial Lawyers Association
Mike Hanshew, Department of Health and Human Services

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on March 10, 1999 at 8:00 A.M., in Room 312 - 2 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 190, SB 153, SB 232, SB 171, 3/2/1999

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 180 - 433}

Closing by Sponsor:

Senator DePratu made closing statements.
{Tape : 2; Side : A; Approx. Time Counter : 433 - 550}

HEARING ON SB 179

Sponsor:

Senator Holden presented SB 179.
{Tape : 2; Side : B; Approx. Time Counter : 0 - 22}

Proponents:

Greg Petesch, Code Commissioner
{Tape : 2; Side : B; Approx. Time Counter : 22 - 67}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 67 - 110}

Closing by Sponsor:

Senator Holden made closing statements.
{Tape : 2; Side : B; Approx. Time Counter : 110 - 124}